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NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1995

PAUL CARROLL, JACQUELINE CARROLL, DAVID CARROLL, BEVERLY CARROLL,

Petitioners,

vs.

FRANCIS J. LORSON; WILLIAM K. SUTER; ROBB J. JONES; and JOHN DOES I-X, JANE DOES I-X, ABC CORPORATIONS I-X,

Respondents.

PETITION FOR WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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60 pp

CERTIORARI QUESTION IN THREE PARTS

Part A Is it lawful for clerks of the Court, with or without the influence of any source outside the Court, to hold away, divert, return, or otherwise interfere with the transmission of any case to the primary review of all the members of the Court?

Part B Does the immunity which exists to protect court staffers from **frivolous** actions for redress which serve only to obstruct justice, extend to the protection from proper inquiry of allegements of staff interference of the judiciary process (obstruction of justice) in excess of the threshold of their role?

Part C While it is the purpose of the Judiciary to question the Constitutionality and/or propriety of law, is it lawful and constitutional that any employee or agent of government have unimpeachable licenses to manipulate any case at law prejudicial to the administration of the authority of the Court?

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A CASE TO THE PEOPLE OF THE UNITED STATES FOR A RETURN TO CONSTITUTIONAL GOVERNMENT

Every freedom-loving citizen of the United States wants the Constitutional model of government to work efficiently and fairly. To that end, this actual case presented to the United States Supreme Court is herewith

simultaneously submitted to the people of the United States on electronic media. For while decisions by the High Court are publicly communicated on the minority of cases which the court undertakes, rarely is anyone made aware of the potential of cases at the time of presentment.

Petitioner Paul Carroll, et al., respectfully prays that a Writ of Certiorari issue in review the opinion of United States Court of Appeals for the District of Columbia Circuit affirming an opinion of a District Court Judge about which he is powerless to enforce execution of the Rules of the Supreme Court or even inquire thereto.

Make no mistake, this ploy is designed to necessitate primary recognition by the Justices of the problem by enlisting the public to assure that if not legitimately transmitted by the rules, they will nevertheless acquire the case independently. Necessarily longer than a normal certiorari, a word which means

to the lay person, certification of the law, every detail for the understanding of the people to whom this court belongs is included in narrative format rather than the usual abbreviated legalese; believing as appellants do that justice is never better served in secrecy.

The Justices themselves are not meant to be insulated, Pope-like, in a judiciary basilica for the remainder of their lives sworn to the service of God. Rather they are presumed to be expressly in the service of man and a concept of justice which must keep them in the most constant awareness of the frailties of human nature. They are not meant to be kept ignorant, but enlightened; not naive but wise, and above all, all truthful. And where evidence presents that the **system** has broken down, they must be morally strong in order that no fault accrue to the trust bestowed to their generation of keeping.

While it may be arguable that there

are cases yet unresolved where agents/employees of the United States exceeded their authority, breached their discretion and caused immeasurable harm - even wrongful death - which by the very heinousness of that outcome sends a shiver of fear through the people of the nation, law exists to say that must not occur ever; though it has repeatedly.

The moral dilemma remains the direct parallel between exceeding authority/discretion in cases where no death compels no oversight and cases where the heinousness of the outcome compels oversight, whether judicial, legislative, or executive. For if the only thing that titillates self examination is the spectre of death or worse, multiple death, then we are indeed a morally bereft nation.

There is no point to gentility when the concept of authority and discretion has been so unkindly abused. People of this country have died for its honor and people living now WILL die for that which this court

would dishonor by a lack of will to act. It has the same spiritual qualities which compelled our other revolutions which we culturally promote as "good".

It is proper for a complete fact pattern of this case to be presented to the Supreme Court as one would to a District Court because both Federal Districts Court and Court of Appeals of the District of Columbia have refused jurisdiction **before** a fact proceeding took place from which they impute that the **only** authority which can try the case is the Supreme itself.

Few people sustain any illusion that special interests have not pervaded the executive and legislative branches, notwithstanding any negative impact on the people. But the last bastion of belief in justice has remained an unbiased judiciary.

Regretfully, if, as this case demonstrates, the pattern emerges that the courts or their key personnel are persuaded

by special and partisan interests that have nothing to do with defending the law or the Constitution then the fundamental moral decay of the government entire is a fet-a-complie.

OPINIONS

Per Supreme Court Rule 14.01(k)(i) the "mandate" of the District of Columbia Court of Appeals is reported as Carroll vs. Lorson, Suter, Jones, et al., 94-5269 and appears in Appendix [A] to this petition. The opinion of the District Court for District of Columbia appears in Appendix [B] to this petition. The ORDER of the D.C. Circuit Court affirming the District Court memorandum appears as Appendix [C].

Such other findings of fact and non-appended materials appear by number reference in the Table of Contents marked Lodgings 0 to 36.

JURISDICTION

Per Supreme Court Rule 14.1(e)(1), the Court of Appeals Opinion in this matter

was filed on June 7, 1995 (See Appendix A). A timely petition for rehearing and en banc consideration was issued May 23, 1995.

This Court's jurisdiction is invoked under Title 28 U.S.C. Section 1254(1).

CHRONOLOGY OF THE CASE - PART I

FACTS OF THE ORIGINAL INCIDENT

A flood caused by Hurricane Doreen in 1977 followed by a second flood in 1978, damaged a large segment of the agricultural district along the Colorado River around Parker, Arizona. Congress established a disaster relief under Public Law 95-334 to assist these farmers to get back into production with low interest loans under a general public policy of sustaining the food supply. All but one farm were repaired under these terms. The one farm, worst destroyed of the lot, was a hay/cotton operation of brothers Paul and David Carroll whose 1200 acre business had been built in 10 years of work without any public investment. FmHA (USDA) told them the farm was a total

loss and that the agency would find another farm to re-establish them. Public Law 95-334 stated that the Secretary of Agriculture **shall**, with no discretion, facilitate the re-establishment of these qualified farmers. Among half a dozen proposals the best and closest to their loss was the 1237 acre parcel known as the Hadley Farm near Gila Bend, Arizona upon which the government had a note about to be foreclosed against Hadley's default on a government farm ownership loan. The FmHA county agent, Joe Cluck, was good friends with Mr. Hadley and a lawyer named Reed King, who had previously done business for FmHA. The Carroll's credit eligibility was 4.2 million dollars of potential loan but they negotiated the Hadley farm at only 3.7 million. That loan plan took six months to put together. The government's public policy interest was only to get a fallow farm producing profitably again and two farmers back into business per law. But Joe Cluck recommended denial of the

Carroll loan as being not feasible, though he had put the plan together, in favor of a 4.4 million dollar loan to another party (Minyard) which plan he devised in only four days. By voluntary withdrawal of Hadley before the repossession to allow the immediate sale, the new money payed off the defaulted loan and left Hadley an additional six hundred thousand dollars free and clear to begin again instead of bankruptcy. However, the farm could not produce sufficient to service a 4.4 million debt and within a year and a half began to fail. The property, now designated "surplus", was taken over by the lawyer Reed King on another government loan of 2.2 million dollars set in motion before his death by Mr. Cluck and the payments were thereafter subsidized by government statutory programs under ASCS (Agricultural Soil and Conservation Service) for taking the land OUT OF PRODUCTION giving King the farm virtually free at an accumulated cost to the government of about 6 million

dollars outlayed; just chalked up to the deficit against the national interests. This was conspiracy to commit (criminal) fraud against the government while the Carrolls were victimized by the abridgment of a mandatory statutory provision by agents of the government who claimed discretion!

PART II: ADMINISTRATIVE APPEALS

Attempts by Carroll to effect the loan and get back into business were resisted pending administrative appeals up the FmHA chain of command which at each level rubber-stamped the discretion of county agent Cluck until at the highest level an FmHA officer named **Loughgrin** wrote a memo in 1981 that said it wasn't true and that the process should begin again without Mr. Cluck or his cronies involved. But Cluck and company took control again anyway. Though Congress intended successful farmers to farm successfully, the Carrolls lost everything and can never recover. Driven to destitution, Paul Carroll had a stroke

in 1982.

Injury resulted from direct negligence both by omission to act on a mandate of law and to act in a manner specifically prohibited by the rules.

PART III: LITIGATION: Chronology

To preserve the damage claim required in 1981 the filing of a suit against the government in order not to run beyond the two year statute of limitations which would elapse while the government (FmHA) held the Carrolls in check in endless unresolved administrative review.

From 1981 through to the present:

1987: Judge Copple opinion; Summary judgment that the Federal District Court of Arizona had no subject matter jurisdiction; without authority.

1988: On Remand; The **Supreme Court** formed the question on January 13, 1988 when the Ninth Circuit found that the government had negligently failed to execute its statutory commands, the question put "was there a cause of action under prevailing Arizona law as applied to the Federal Tort Claims Act"?

1989: Judge Rosenblatt ruled that no cause

of action existed by which to prosecute the claim, summarily dismissing the action; though tort law is statutory in Arizona used previously in cases before the courts. The bench gave no analysis to justify the total abrogation of a statute to support its finding.

1990: Ninth Circuit Court of Appeals majority, also without legal analysis or authority affirmed the Rosenblatt decision. Judge Noonan dissenting said the state law fit to a "T" with a signature authority. McCutcheon v Hill, 710 P2d (AZ 1985).

Note: Two weeks before this ruling federal agents attacked David Carroll, falsely accusing assault of a federal officer, for which he was acquitted. In the collateral case Civ 91-1878 PHX-PGR (Lead) and CIV 92-471 PHX PGR (Consolidated), Judge Rosenblatt (the same district judge who before said "no law existed") would not permit discovery and dismissed the malicious prosecution case, which is on appeal.

1991: Certiorari to the Supreme Court, denied by the **clerks** with the strong circumstantial implication of connection to the Solicitor General who defends the government from the **Executive** department, a breech of the separation of powers doctrine. The case was never reviewed by the justices after which upon motion for rehearing, utilizing Rule 60 of Federal Rules of Civil Procedure, the **clerks** themselves rejected the motion saying that F.R.C.P. are not utilized in the Supreme Court even though Rule 17 of the Supreme Court Rules says F.R.C.P. is to be utilized. (See Lodgings 5)

1992: There is no provision for administrative rejection of a Certiorari previously submitted, even legitimately denied, to consider in succeeding sessions if the court has never yet ruled on the question.

Thus worse yet, the following term, 1992, the clerks routinely numbered the resubmission S.C. 92-595 (See Lodgings 14, 15) and upon realizing the potential for discovery of what they did the previous year, changed the number to another case Reed v U.S. and sent the certiorari back to the Carrolls without knowledge of the court. The facts drive toward a conclusion that clerks are prejudging cases on advisement of other than the Supreme which the Supreme Court never sees.

1993: The clerks were sued in the District of Columbia Federal District Court for civil tort remedy based upon the negligence to follow the law, exceeding their discretion which of course obstructs justice.

The government never answered the Complaint or addressed the question instead moving for summary judgment on a theory that Supreme Court clerks are immunized by their direct supervisory status to the Supreme Court. The District Court refused to permit discovery **which went to the appropriateness of clerks**

prejudging cases before the justices get them before summary dismissal.

Both District and DC Appeals courts said they simply had no jurisdiction to presume to order employees of the Supreme Court to do anything which brings the case to the door of the Justices again in 1995 to consider whether clerks have the right to prejudge cases under influences or for any cause outside the Supreme Court to deny the opportunity for the high Court to consider them.

Summary of Reasonable Inference of Facts: It appears, with regard to this case and collateral matters, to have been the judiciary objective to suppress redress, minimize opportunity for discovery, promote the government policy of selective application of law to its own purpose and where the law is broken a purpose, to manipulate by excessive litigation the exhaustion of citizens to incapacitate them from challenging the government's misuse of authority; all of which

is unconstitutional.

REASONS FOR GRANTING THE WRIT

To deny now to consider the ramifications of this chain of events has the effect of leaving in place a precedent for selective enforcement by agencies and the courts of the law, neither impartial nor equal to the objective of justice.

Unlike such exigencies as "Waco" where **public** abhorrence at loss of innocent life has forced scrutiny and adjustment of government public policy, so that innocents might never again be victimized, the lack of awareness of the ramifications of this action would only further insure that it be not corrected and that other cases could suffer the same fate; as no one can speculate how many times it has already occurred or the magnitude of harm accrued from it.

Just as applicable here, concluding to the Circuit Court, appellant said before that:

"In the end it really doesn't matter what we say either about this case or other cases. For the courts will fabricate their will to fit the purpose of their mindset. What must be addressed then is the mindset; which most perfectly fits this D.C. Circuit Court's requirement to head that chapter of rhetoric, "Concise statement of issues **and its importance**"; in that the issue pales to the importance".

This court may have capitulated its own authority to minions and subordinates - **not** mind you delegated as one would entreat specific performance upon the authority of the superior but that acts are perpetrated without instruction; performance non-specific of acts about which the superior is not made aware. And in so doing the minions believe that the rules of the superior do not apply. They've said so. And, of course, the Chief Justice surely COULD NOT have known. Unthinkable, because in knowing the court would

have abetted the deliberate breaking of statutes across the entire strata of government, lowest to highest, compromise of the separation of powers doctrine and the 5th, 9th, and 14th Amendments of the U.S. Constitution putting the highest court in jeopardy under Article III for negligence to perform its own constitutional duty, its good behavior, to protect the law and defend the Constitution.

To either affirm the "Circuit Court Mandate", that in not having jurisdiction it: 1) defers to the Supreme Court to try the case which then does not try it on the merits; or 2) deny to rule upon the finding of the circuit in this matter is to confirm that Supreme Court rules HAVE NO VALIDITY, that no subordinate court's authority has jurisdiction to preserve or enforce them. Thus the head is severed from the lower jurisprudential body which might otherwise serve to protect it.

If this question is withheld from this Court again as the collateral case was

before, the individuals who shall have taken that action under a self assurance of the invinceability of their purported immunity will have done exactly what they did before with impunity. However, if this action moves to the hands of the justices they cannot as a matter only of law but most especially as a matter of the **preservation of their constitutional authority** fail to find for the appellant who is in favor of and in league with the preservation of constitutional authority. This has all the elements of a Constitutional crisis.

There is NO case law, statutory, constitutional, or other authority which provides for the abrogation at the whim of a subordinate of the Supreme Court's proper constitutional authority to have rules and to expect them to be honored; none.

In order to facilitate this postulation that subordinates need not apply the rules will necessitate either the court

itself to create a new court made mandate, adjudicating that its own authority is under these exceptional circumstances invalid or merely affirm the effect of invalidation as a precedent for future expansion of this exception, the effect of which is commensurate reduction of the court's span of administrative control, by denial to hear the question.

At the heart, each of the triumvirate of our constitutional government has but one and the same purpose while doing their different functions - defend the Constitution. When, even as school children, we pledged our allegiance to the flag of the Republic for which it stood, under God and indivisible with freedom and justice for all, did we mean to include disinformation, lies for political expedience, fraud and deceit, covert "black" operations and sufferings endured by innocents for political objectives, indeed "immunized", of a bureaucratic elite? We respectfully think not.

If this court supports a theory that a lie is preferable to the truth to attend pragmatic "good government", what is called in Europe real politik, then it is a citizen's duty to remain in disagreement with the court; as is the duty of every citizen at any level. For if our Highest Judicial Authority has not the stomach to be part of the solution, then it is part of the problem; and a lie, even by omission, is still a lie, and no less injurious. One cannot have it both ways and still be, as the good Mason would say, "on the level, on the square and living within the compass".

The court's members surely cannot have escaped notice that the disquietude of the citizenry now is the sense of threat of ill treatment at the hand of their government which promised much but takes it back, either to cover its mismanagement of decades or the more malignant fear that the mismanagement was a purpose.

Few living today do not have some personal experience, a bad story to relate, about an interface with their government which, they believe in majority, would lie even when the truth would do.

It is the same ill spirit of disquietude which promoted each of our other two rebellions which history suggests could have been averted by truth and a little common sense. But that lack historically created short term profits to the few and staggering long term losses to the society rather than short term liabilities fairly shouldered all around but long term prosperity to the greatest majority.

And, of course, the empire of the Soviet Union has disintergrated of corruption from within; instructive only that it can happen even now to the last of the world's great empires, our own, purportedly the highest apogee of human technical and cultural achievement upon the earth. Prosperity, freedom, and

justice starts with just one truth. Going the other way starts with only one lie. One cannot have it both ways.

We might utilize as a case (at law) Hutchison v Harold, Az C385203. Early in that tort action, 1977, collateral to a breach of contract about which **Hutchison** had attempted to recover his ranch and cattle where defendant, a state livestock officer, had not followed the statutory, regulatory scheme in accord with performance on the contract to a party Tatham. Then Superior Court **JUDGE SANDRA DAY O'CONNOR** ruled that defendant could not sell the herd which he did not yet actually own before abandoning back the ranch, unfairly enriching himself. Judge O'Connor was exchanged with another judge, Philip Marquardt, who several years later was removed from the bench and disbarred for his involvement in drugs, whose first official act on the case was to rule for sale of cattle and award of the proceeds to Tatham which State Officer Harold,

also in the employ of Tatham, then executed.

The seven year litigation resolved two years after Hutchison's death but the State of Arizona was assessed thirty-five thousand dollars as part of the total judgment to the Hutchison Estate for **TORT NEGLIGENCE** PER SE to adhere to the applicable statutes and livestock regulations in part the result of the departure of the court early in the case in disfavor of plaintiff for partisan purposes.

While perhaps justice was eventually served, Hutchison, trapped in endless litigation until his death, knew no justice in his lifetime.

Remember the initial question formulated by the Supreme Court for presentment on remand by the 9th Circuit reflected in SC91-116/92-595 unresolved was "is there tort law in Arizona?"

We include this Hutchison case, relevant to recount for this reason and also the case, SC 91-116, which the clerks before

held away from these honorable justices, because it has all the elements of this case at bar, that tort law did and does exist in both places where the acts or omissions to act have occurred, that governments can be held accountable for the result of what courts do, that corruption does occasionally exist in courts for unjust purposes and that pride and prejudice are sometimes stronger motivators than the rules under which our society seeks for justice and security.

"Equal justice for all". This admonition is the most prominent feature of the facade of the Home of the Supreme Court and it is a house which needs always to be first put in order. For when the government is perceived no longer to be for the people, the people will not be for the government either.

Had this honorable court been privy to that Certiorari, would not two of the Justices, its Chief, Mr. Rehnquist and,

Associate, Ms. O'Connor, necessarily have had to inform the remaining seven judges, that as legal practitioners both hailing from the State of Arizona, Federal District of Arizona, each had plead torts (or as Judge presided) in Arizona courts, and that it was indeed statutory as a matter of law, especially regarding special duties per se under unambiguous rules or statutory commands, due care to perform - a foregone conclusion requiring to remand unanimously the finding of the District (of Arizona) Judge who said there was not; repudiating the 9th Circuit for upholding that finding **without any legal analysis whatsoever.**

When the government itself cannot play its own game straight no-one else feels obligated to do so either.

If court does not follow the law and exhorts its own people to do the same, the country, as a constitutional republic, cannot be preserved.

Before we would consider what would make us a traitor to our country, the legal term of art in war under the Constitution, at Article III, which the **Executive** has currently used to denote **citizen action** which opposes the official agenda when war has not been declared against an aggressor, we must each ask first as citizens what would make us a traitor to ourselves, which could in any way make one an enemy of the state. For an honest heart cannot be a traitor to an honest country which reflects the honor of its people. There is no rhetoric to circumvent a pure truth. The cold war gave us spectres of potential aggression from without, without which we look to make war from within.

This court needn't be reminded, except to make a record, that its authority derives only from the Constitution ordained by the people and continues only upon its good behavior. These are real words of an original contract with the people of this national

creation which includes all subordinates employed by the courts. It is curious that "good behavior" and "traitor" are both arranged in the same constitutional article - yen and yang; the contest of good and evil.

To permit by inactivity a precedent of law to come to being which reserves to minions of the court an immunity from the reach of even the courts and extends the judiciary authority to the deliberate **inhibition of justice** by wanton interdiction of the right of discovery and to allow political considerations to dictate the uses to which the law is put is unconstitutional.

And while there must always appear paradox in that narrow void between the letter of the law and the spirit of the law that will continue to confound legal scholars long after this contest is done, part of the mission of the court is to create continuity, symbiosis and consistency in the law and to constantly improve and reduce the margin of error in the

realm of law to obtain **justice.**

Perhaps the Clerk of the Court, indeed the court itself, may believe at any given moment that its actions at law are in, term of art, the "best interests of the service" and the nation. But any action that prohibits on controversy the **spirit** of our Constitutional Republic from which first the law emanates also—controvenes the law itself; for if the law is but a tool used to constrict and manipulate facts for a transitory political objective especially at harm to a citizen and by absence of due care to preserve the rules, it controvenes the spirit for which purposes law was created; that **justice** prevail and to that end that all **discovery** must be permitted.

When the High Court considers its constitutional roles or the application of this Constitution upon any case before it, especially as a purported conservative constructionist court, it must consider what

the founders meant. The many laws that exist now which did not exist at the founding draw their authority from the **spirit** of liberty and justice which it engendered. To be constitutional the spirit came first. It is the priority test of the legitimacy of a law and of government itself, and therefore is the area this court reserves to itself which is different from subordinate courts which must depend almost entirely on the black letter of the law alone.

While the D.C. Circuit may have considered that this narrow spiritual authority lies only with the high court to, in its effect, try on the merits, for none below have yet dared to try it upon the merits of fact or even permitted the facts be discovered, they do not say. But it remains that both District and Circuit Courts **of District of Columbia** were created under Article III, just as the Supreme Court.

But true to their oath (and this

court's) most certainly the Supreme Court is a court of **original** jurisdiction on **all** matters civil or criminal on land or maritime - ALL without exception. Article III. But what of government which would make enemies of its own people and wars of attrition upon these designated "enemies" of the state who are its own people? Such a nation divided, we know CAN endure by force or even survive as the country from which we seceded, the insanity of its King. But can its spirit remain unaffected? What of the victims of a dominance "force" mentality?

It is alleged that these employees of the court have controvened their role and the authority of their superior, this court, and can be proven that they have said that rules selectively do not apply within their discretion to ignore them.

The effect of this abrogation of Supreme Court's rules which have the authority of statute, subject to examination, was

arguably an improper denial of a proper certiorari, SC-91-116/92-595, to this court to avoid a ruling which might necessarily place the government in a disfavored position to answer to a serious negligence or worse and in a much larger context a misalligned and massively injurious public policy under which congressional oversight says 300 billion dollars has been expended supposedly to help family farmers while the result has been 300 billion dollars of lost asset value of farms and the ruination of 800,000 farm families. This is not just of interest to farmers but every citizen whose taxes paid for it and every citizen who is a consumer of the fruits of agriculture.

While the lower courts assert that they have no authority to consider facts of the allegement because the Supreme Court's supervisory power over its clerks is exclusive to the Supreme Court, it does not address at all the nature of the allegement different

from this judicial craft, that no other body of interest inside or out of government has the authority to penetrate the exclusivity of the high court's administration of its clerks to persuade them to any act or effect of which the Supreme is not cognizant either. This is a different fact pattern than the case law upon which lower courts rely to discharge this allegement. Taxpayers Watchdog, Inc. v Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987); Walker v Washington, 627 F.2d 541, 545 (D.C. Cir.).

No one has asked any court to issue any order by mandamus or otherwise to compel the Supreme Court to do anything. Rather, the gravamin of the complaint is against subordinates of the court who simply did not follow the rules and imputed to have authority in its effect **greater than the Supreme** to employ or disemploy the rules at will without knowledge of the court. The Bull is only subdued by whoever has grasp of the ring. What was asked of the district court was to complete the

discovery precedent to the prosecution of the action and this they found any expedient to evade. If there was nothing to hide - why hide?

A third American revolution for the soul of the nation is taking place right now. The first was the Traditional Revolution, 4th of July, Spirit of '76, etcetera. It was a grass roots rebellion where the people proclaiming themselves "'We' the people" stated their grievances among which **that their grievances had not been properly responded to by the courts of the crown.** They set about organizing their own government and this court which was the child of that dream.

The second American Revolution was the War of the Rebellion or Civil War. That waste of life established that once a part of the union no state could break away under martial threat if need be. It is reminiscent of the Soviet Union which not once but several times crushed its member states into submission

to its central committee will; the only exception being Mr. Lincoln's belief, expressed again at Gettysburg, of preserving the union, a government of, by, and for **the people.**

Formed philosophically upon the principles of the United States Constitution, the Soviet Constitution has all the same elements of law and justice. But its government was seized almost at its inception by a militant elitist movement finally referred to as the "evil empire" before its own last revolution; that which we consider the end of the cold war. The Communists suffered none of Lincoln's illusions. Remember, even Adolph Hitler's vision of national socialism came to power in a democracy, the Weimar Republic.

And as a seguay to the Third American Revolution, it is internal; for there is no other place to escape. The founders UNDERSTOOD that the **nature of revolution** is the expression of the pendulum of change and that armed aggression is only the last tragic symptom

of a change so complete that nothing can ever go back as it was.

The third American Revolution is now and things can never go back as they were, and more change WILL occur. The question is how; only if clearer heads can avert a martial conflagration into the new age.

The Constitution is not a rule of order for the restraint of the people but the restraint of government. The courts in a civilized society, as our Constitutional Republic purports to be, are the last refuge for protection of the citizens from intrigues or **tyrannies** of government; the term specifically denoted by the founders. When that the judiciary crafts a body of precedent, which they treat as law, without the consensus of the people through their elected officials, that government excess **should** escape responsibility for harm done to any citizen, it runs diametrically counter to the purpose of the Constitution and of the Republic about

which it was formed.

According to the Unanimous Declaration, upon which rock is founded the Constitution, it is the right, "neigh the duty", of the citizen to inform the government when it has gone awry and to move to correct it.

When that the government must, to maintain itself in the face of such notice, resort to break the law, it has lost its moral authority which lays then with the plaintiff of the bill of allegement.

Afraid to consider the merits, neither the D.C. District nor Circuit Courts, too perplexed by this quandary, aspire to undertake the jurisdiction to decide upon these questions though they too are Article III created; leaving to the Highest Court to consider the ramifications. And that court may not even be capable due to the personal conflict of interest wrought of the undermining of its administration. An embarrassing dilemma. Statutorily created courts might indeed evade

jurisdictional responsibility but no Article III courts - remember, ALL CASES criminal, civil or maritime, without exception, in whose place the act or omission to act occurred, could claim lack of jurisdiction without shirking its duty.

Thus the Supreme Court must in the end declare whether it chooses the right of a citizen to be free of bureaucratic intrigue or conversely the artifice of the government to dispense tyranny (founders term) by abridgment of the law and immunity from any question thereto. There are no other options and no compromise. So said the founders whose construction this court claims to adhere and so say appellants now.

If this court denies to consider these matters, then it has actively contributed to preserve a provision which is neither constitutional nor of the statutory law that tyranny to inhibit the law by government toward its own purposes at deliberate injury of the

people is proper; when we all know to our marrow bone that this is not meant to be the law.

It is at this point that courts will have become the outlaw against the people as the King's courts were and we do not need rogue courts now anymore than our forebears when they threw them out two hundred and twenty years ago.

In **THIS** case, a different standard of conduct has been erected for Supreme Court clerks than for all the rest of government employees who may be liable for their negligence to act or omission to act outside the limitation of their discretion, fact questions resolved only by inquiry, who cannot escape preliminary discovery to adduce the truth of the matter.

In every other application of law the District Courts are the courts of fact to ferret the truth and make a record. The Supreme Court is a court of appeal, NOT a court of original fact to oversee mundane discoveries and the primary processes of legal

administration.

This appellate court has a duty to review and consider any case, such as this, where it is reasonable to question the finding of any or all lower courts. Or where those lower courts have simply said they haven't the authority to consider upon these matters deferring to the high court, it should shoulder that responsibility and do that for which there is no higher authority to which to pass the buck.

When any agent of government may have abdicated or exceeded his regulatory limitation of employment he becomes, as any citizen, liable as an individual for the damage attributable to his act or negligence to act.

However, his employer, the United States government, is the respondeat superior to make right what injury has occurred to citizens against the public trust. The only threshold questions to make such case on first impression are: (1) did the agent/employee

exceed their discretion to negligently act (or not)?; (2) is there a cause of action in the place where the act or omission occurred?

These are fact questions which discovery must be permitted complete latitude to produce results in a free judiciary committed to the whole truth - if that is what the judiciary is all about or so the Constitution would seem to indicate. It is the only way to maintain the credibility of the courts.

To put the proposition the other way, it is illegal to beg the question the answer to which would necessarily cause embarrassment to the national government; ergo it is actually the primary function of the judiciary to suppress by any means questions of governmental impropriety, hence more specifically the judiciary, and this is legal because the courts say they also remain immune from any inquiry thereto pertaining. Is that about right? It is what the English courts said from whom we revolted. That is precisely

the postulation recorded of findings at Nuremberg, well recognized, of the Reich Court when in 1934 redefining the role of the courts with regard to the (German) government reinforced by findings each year thereafter during the life of the Reich until Nuremberg, where judges themselves were judged under the prosecutorial construction of United States Supreme Court Associate Justice Robert Jackson who said that "while courts try cases, cases try courts".

Thus it remains the strict construction of the duty of this proactive court, not to legislate, but to **say** all of that is so or not so; whether JUSTICE is only a matter of the necessity of the moment, that a class of individuals IS above the reach of the law; that truth, the whole truth and nothing but the truth is only a philosophic concept, the conclusion of which is that agents of the government, especially clerks of this court, can act out and controvert the most basic

premises of our Constitution, a right no other citizen possesses with absolute assurance that this court will protect them. If so, what makes us, as a culture, so different from the last evil empire to succumb? And by what moral authority will this any longer be a constitutional court?

Our uniquely Jeffersonian "American experiment" as DeToqueville described it, as any experiment at its conclusion, is meant to affirm a hypothesis, refine an established theory or, in its failure, to learn how it differed from the (founders) expected result.

The world was a feudal place of competing Imperial interests when our experiment in government by the people was initiated. A few imperious individuals in that world determined the form and function for all the rest who in turn took their cue to produce with their lives' work the output necessary to attain those goals. The hope of survival tied them to their culture but

sometimes demanded sacrifice of that hope, those lives, all they might ever be or ever have, to that old world order.

Status report: New would-be Caesars abound. The world has become again a feudal place where a new generation of imperious individuals vie to micro-engineer the form and function from which the multitudes take their cue to produce with their lives' work the output necessary to attain those goals. Survival ties us to this culture and to this newest of world orders; for some the sacrifice of all they might ever attain and, a few, all that they will ever be to subsidize a very few who dictate the policy.

The difference in between was meant that those multitudes ought have a voice in the proposal of the form and the function under which they themselves must produce. If the outcome results that the consensus of the citizen community has no real authority, then the trappings of the experiment is a sham.

But like any experiment, there is progress in failure if only to know how it occurred. Often it is the introduction of a foreign element unintended in the proposed formulation.

Does the Supreme Court indeed defend the civil right of citizens to be unmolested by government if it also preserves the mandate of a minority to vent unrestrained its discretion, including excess to law to molest the security of the citizen? No. These are mutually exclusive propositions.

This court has always had in hand a vital pressure point, a safety valve, utilized to assure that this natural drive toward conflict need not advance to a flashpoint; as the people see that even small cases have compelling and far reaching results in favor of the people's justice over the interests peculiar to the government not in the people's interests.

Change **has** occurred at the highest levels of government central planning. It

remains for government to correct or adjust or reverse that which has not been successful. Even absent the apocalyptic dissidency of our society leaves a disturbing picture of the internal deterioration of the mechanics of government and a strong impulsion to examine the mission of government's current redefinition, seemingly out of focus. (If one thinks not, in the extreme think "Waco" or "Ruby Ridge"). The sacrifice of innocents to maintain the illusion of control.

The mission of "government" is either to:

1. Do those things cooperatively which individuals or each subordinate level of governance cannot do to insure personal and domestic security and tranquillity. (U.S. Constitution, unamimous declaration model) or

2. Establish methodologies which will enable citizens to live fulfilling, purposeful existences. (Socialist dogma model).

When, based upon the preliminary evidence, it is reasonable to believe that a clerk of the Supreme Court has negligently compromised a rule (or rules) of the Supreme Court, removes the veil of immunity until satisfaction of the question by discovery.

Government exhorts its citizenry not to "take the law into its own hands" heavily sanctioning those who do but exempts, admonishes, and protects its own agents who do not conform to this standard. Ironically in the Constitutional model the law **is** in the hands of the people to preserve anyway.

CONCLUSION

The law is one law for all. To distinguish a special group unaccountable to law is to create an esteemed class by definition - a "nobility" - specifically against the Constitutional prohibition at Article I, Section 9, Paragraph 8.

Would the Supreme Court care to say that when one becomes a government employee,

protected as a ruling elite, that he actually becomes an outsider to the law; that no court, no authority, has the legal jurisdiction even to question his actions? If so, as Solszenitzen suggests, a quiet revolution **has** taken place where the government has seized all power from the people. The rat race is over and the rats have won while only the illusion remains. The appalling darkside to all this is that sooner or later a citizenry perceiving itself to be oppressed by a corrupted ruling elite bureaucracy will resist to take back its lost autonomy forcing the government to the offensive to maintain its dominance and the self-fulfilling prophesy of government's own paranoia, will elevate to a contest of martial prowess against which people cannot prevail technologically and from which no one can emerge a winner. Pogo was right, we HAVE met the enemy and he IS us and there is nowhere else to go except inside - that same spiritual place that this court reserves to itself beyond the

literal law. It is the conscience of a nation without which there is no nation, only corruption.

Remand today to impel with faith in the system of justice, uncompromised and unmanipulated, this case back to the lower courts to do their constitutional fact finding mission there from which to deduce, if needs be, such summary judgment, upon application, as may be warranted by the finding first of fact or the absence thereof the allegement.

Perhaps the citizens have more faith than the courts in the founders' dream of truth.

Finally, a code exists which transcends history, has outlived governments and preceded our respected Constitution. It is the code of **honor** which ever must - before the law - dignify the judiciary to earn and maintain first the title of HONORABLE court. We have yet to find one whose HONOR stands with the law rather than to use it as a cheap and expendable tool to purposes for which it

was never designed.

As to Appellants' personal code of honor, it has only two principal tenets - don't lie and don't quit.

RESPECTFULLY SUBMITTED this 31 day of August, 1995.

Paul Carroll
PAUL CARROLL

Jacqueline Carroll
JACQUELINE CARROLL

David Carroll
DAVID CARROLL

Beverly Carroll
BEVERLY CARROLL

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 94-5269

PAUL CARROLL, JACQUELINE CARROLL, DAVID CARROLL, BEVERLY CARROLL,	)	September Term 1994
Plaintiffs,	)	Civil Action No. 93-1371 (RCL)
v.	)	
FRANCIS J. LORSON; WILLIAM K. SUTER; ROBB J. JONES; JOHN DOES I-X; JANE DOES I-X; ABC CORPORATIONS I-X,	)	MANDATE Pursuant to the provisions of Fed. R. App. Pre. 41(a)
Defendants.	)	Issued 6-7-95

BEFORE: Wald, Randolph, and Rogers, Circuit Judges

O R D E R

Upon consideration of the motion for summary affirmance and the opposition thereto, it is

ORDERED that the motion be granted substantially for the reasons stated by the district court in its order filed August 3, 1994. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam); Walker v. Washington, 627 F.2d 541, 545 (D.C. Cir.) (per curiam), cert. denied, 449 U.S. 994 (1980).

The Clerk is directed to withhold issuance of the mandate herein until seven days after deposition of any timely petition for rehearing. See D. C. Cir. Rule 41.

Per Curiam

Judge R. Wald

Judge A.R. Randolph

Judge J.W. Rogers

APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PAUL CARROLL, JACQUELINE CARROLL, DAVID CARROLL, BEVERLY CARROLL,	)	
Plaintiffs,	)	Civil Action No. 93-1371 (RCL)
v.	)	
FRANCIS J. LORSON; WILLIAM K. SUTER; ROBB J. JONES; JOHN DOES I-X; JANE DOES I-X; ABC CORPORATIONS I-X,	)	FILED August 3, 1994 Clerk, U.S. District Court District of Columbia
Defendants.	)	

O R D E R

This matter having come before the Court on a motion to dismiss the federal defendants from this case, or in the alternative, for summary judgment on their behalf, and the Court having considered plaintiffs' response thereto and the entire record herein and finding that these Supreme Court employees are entitled to absolute immunity from suit regarding the performance of duties involving the judicial process, Burns v. Reed, 111 S. Ct. 1934, 1941 (1991), it is hereby

ORDERED that the federal defendants' motion is granted, and it is

FURTHER ORDERED that any claim for injunctive relief is DENIED (see In Re Martin, 956 F.2d 339 (D.C. Cir. 1992); and it is

FURTHER ORDERED that the federal

defendants Francis J. Lorson, William K. Suter and Robb Jones are dismissed from this case. The complaint is hereby DISMISSED WITH PREJUDICE.

SO ORDERED.

s/Royce C. Lamberth
United States District Judge

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PAUL CARROLL, JACQUELINE CARROLL, DAVID CARROLL, BEVERLY CARROLL,	)	
Plaintiffs,	)	Civil Action No. 93-1371 (RCL)
v.	)	
FRANCIS J. LORSON; WILLIAM K. SUTER; ROBB J. JONES; JOHN DOES I-X; JANE DOES I-X; ABC CORPORATIONS I-X,	)	FILED August 3, 1994
Defendants.	)	Clerk, U.S. District Court District of Columbia

ORDER

This matter having come before the Court on the federal defendants' motion to quash a deposition subpoena and for a protective order, Fed. R.Civ P.26(c), 45(c)(3)(A)(iv), and the Court having considered the entire record herein, it is hereby

ORDERED that the federal defendants' motion is granted, and it is

FURTHER ORDERED that the deposition subpoena sent to Chief Justice William Rehnquist is quashed and there shall be no discovery conducted in this case until so ordered by this Court.

SO ORDERED.

s/Royce C. Lamberth
United States District Judge

APPENDIX C